

Town of Raynham, Massachusetts

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MOBILE HOME PARKS RENT CONTROL AND DISCONTINUANCE OF PARKS

Section I. Purpose

The purpose of this By-law is to provide, pursuant to the provisions of Chapters 7 and 8 of the Acts of 1993 (the "Acts"), for the regulation of rents for the use or occupancy of mobile home park sites in the Town, for the regulation of the discontinuance of mobile home parks, and for the establishment of a rent control board with the powers and duties prescribed herein.

Section 2. Definitions.

For the purposes of this By-law, the following words shall, unless the context otherwise requires, have the following meanings:

- a. "Rent Board", the Mobile Home Park Rent Control Board established therein.
- b. "Mobile Home", a dwelling unit built on a chassis or frame and containing complete electrical, plumbing and sanitary facilities and designed to be installed on a temporary or permanent foundation for permanent living quarters.
- c. "Mobile Home Park", a park licensed by the Board of Health pursuant to M.G.L., Chapter 140, Section 32B provided, however that a resident owned mobile home park shall not be regulated by this by-law.
- d. "Rules and Regulations", rules and regulations promulgated by the Board.
- e. "Discontinuance", any change of use or discontinuance of the use or part or all of the land owned and licensed as a mobile home park requiring a two year notice pursuant to Subsection 8 of Section 32L of Chapter 140 of the General Laws. The term "discontinuance" shall include, but not be limited to, the Licensee's conversion of the mobile home park or part thereof to a condominium or cooperative corporation, unless said condominium or co-operative is at least 51% owned by tenants after such conversion.
- f. Site(s) shall mean the land underneath a mobile home and the associated lot rented from the mobile home park owner or licensee or in the event that the owner of the mobile home park or licensee owns the mobile home, the actual mobile home and associated lot.

Section 3 .Mobile Home Park Rent Control Board.

There is hereby established a Mobile Home Park Rent Control Board consisting of three (3) members appointed by the Board of Selectmen for a term of three (3) years, provided, however that of the members first appointed to the Board one (1) shall be appointed for a term of one (1) year, one (1) shall be appointed for a term of two (2) years, and one (1) shall be appointed for a term of three (3) years. Thereafter, the Board of Selectmen shall appoint each successor to a term of three (3) years. Any vacancy occurring otherwise than by expiration of a term shall be filled by the Board of Selectmen for the unexpired term. The officers of the Board shall be elected annually by its members. No member of the Board shall be a mobile home park owner or a mobile-home park tenant, have any interest, direct or indirect, in said mobile home park or be a licensee of a mobile home park.

Section 4. Powers and Duties.

The Rent Board shall have the following powers and duties:

- a. The Rent Board shall regulate rents and minimum standards for the use of occupancy of mobile home park sites and shall regulate the evictions of tenants therefrom. The Rent Board shall act in the manner provided for herein on an application for a discontinuance permit submitted to the Board of Selectmen.
- b. The Rent Board shall have all powers necessary or convenient to perform its functions; may make rules and regulations, may require registration by owners of mobile home park sites; may require information from said owners, under penalty of perjury, relating to their mobile home park sites; may sue and be sued may compel the attendance of persons and the production of papers and information; and may issue appropriate orders which shall be binding on both the owner and tenants of such mobile home park sites.

Section 5 .Standards for Adjusting Rents.

- a. The Rent Board, in regulating rents, may make such individual or general adjustments, either upward or downward, as may be necessary to assure that rents for mobile home park sites are established at levels which yield to owners a fair net operating income for such units and to tenants, reasonable Site rents based on current economic conditions. Application for Site rent changes may be made by both licensees and tenant(s) of mobile home parks in the Town of Raynham. Any application for change in Site rents made by tenants may not be used as a premise for increasing rents or other charges.

- b. Fair net operating income shall be that income which will yield a return, after all reasonable operating expenses, on the rental value of the property in question equal to the average consumer price index rate increases over the last successive twelve (12) month period immediately prior to the date of application for increase or such other rates of return as the Rent Board on the basis of evidence presented before it, deems more appropriate to the circumstances of the case.

- c. The fair market value of the property shall be the assessed valuation of the property or such other valuation as the Rent Board, on the basis of evidence presented before it, deems more appropriate to the circumstances 9th case.

d. The Rent Board may establish further standards and rules consistent with the foregoing.

Section 6. Summary Process.

The Rent Board may adopt rules regulating the evictions of tenants at mobile home parks, and the Rent Board may issue orders which shall be a defense to an action of summary process for possession.

Section 7. Discontinuance Permits

a. It shall be unlawful for any person to discontinue the use of part or all of the land owned and licensed as a mobile home park without having first obtained a discontinuance permit from the Board of Selectmen subject to the provisions contained in the Acts and this By-law.

b. The Board of Selectmen shall consider an application for a discontinuance permit upon receipt of such application from the licensee or other authorized person. The Board of Selectmen shall forward such application within fourteen (14) days to the Rent Board.

c. The Rent Board shall schedule a public hearing within sixty-five (65) days of its receipt of the application and take written and oral testimony at such hearing. Notice of the time and place of such public hearing and of the subject matter thereof, sufficient for identification shall be published in a newspaper of general circulation in the Town of Raynham once in each of two (2) successive weeks, the first publication to be not less than fourteen (14) days before the date of the public hearing, and shall be posted in a conspicuous place in the Town Hall for a period of not less than fourteen (14) days before the day of such hearing. The Rent Board shall also notify all tenants living in the affected mobile home park sites of the time, place and subject matter of the public hearing. No defect in the form of any notice under this Section shall invalidate any grant or denial of a discontinuance permit unless such defect is found to be misleading.

d. No vote shall be taken by the Board of Selectmen to grant or deny discontinuance permit until a report with recommendations by the Rent Board has been submitted to the Board of Selectmen or twenty- one (21) days shall have elapsed after such hearing without the submission of such report. After such notice, hearing, and report, or after twenty-one days shall have elapsed after such hearing without submission of such report, the Board of Selectmen may vote to grant or deny the discontinuance permit. If the Board of Selectmen fails to vote on the discontinuance permit within ninety (90) days after such hearing, no action shall be taken thereon until after a subsequent public hearing is held with notice and report as provided for above.

e. No discontinuance permit may be granted except by a majority vote of the Board of Selectmen.

f. Notwithstanding any other provision of this Section, the Rent Board may, without holding a hearing, recommend the denial of a discontinuance permit if a decision has been made with regard to the discontinuance of a mobile home park within the preceding twelve (12) months, and if the park licensee fails in the new application to allege a substantial change of circumstances (as such term is used herein) since the previous hearing which would merit the hearing of new evidence by the Rent Board.

In addition, the Rent Board may recommend denial of the discontinuance permit without holding a hearing if the application is not in conformance with requirements of this Section or other applicable regulations.

g. In determining whether to recommend that the Board of Selectmen grant or deny a discontinuance permit, the Rent Board shall consider the aggravation of the shortage of safe, decent and affordable mobile home park sites in the Town of Raynham which may result from the discontinuance especially for tenants of low and moderate income and handicapped or elderly persons on fixed incomes. In making such determination, the Rent Board shall make findings of the following factors:

(1) the benefits and detriments to the persons whom the Acts and this By-law seek to protect;

(2) the hardships imposed on the tenant residing in the mobile home park sites proposed to be discontinued;

(3) circumstances demonstrating hardship and inequity to the licensee seeking a discontinuance permit;

(4) the rate of vacancy of mobile home park sites in the Town of Raynham at the time the licensee applies for a discontinuance permit and the average rental rates for the available sites;

(5) the availability of land zoned and otherwise suitable for the development or expansion of mobile home parks.

(6) whether the mobile home park owner or licensee has acted in good faith in proposing the discontinuance of its/his/her mobile home park.

(7) the availability of alternative ownership forms for the mobile home park (whether resident owned or sale to third party) requested to be discontinued, and in light of same, determining circumstances demonstrating hardship and inequity to the licensee seeking a discontinuance permit.

The Rent Board in its discretion may also review other relevant factors in making its report and recommendations.

For purposes of the Acts and this By-law, the "vacancy rate" shall be defined as that percentage of the mobile home park sites which are empty of mobile homes and are completely permitted and are offered for rental to mobile home tenants. Further, to be considered a "vacancy" the rental offer of the mobile home park sites must be without entrance fee; without restrictions as to the age, size or character of the mobile home; and without a requirement that the prospective tenant purchase a mobile home from the park owner.

In its report, the Rent Board shall determine the current vacancy rate for comparable mobile home park sites in the Town of Raynham. Any parties involved may submit evidence to the Board at the public hearing.

h. The licensee or applicant seeking a discontinuance permit must make application to the Board of Selectmen for such permit within thirty (30) days of serving the tenants with the notices required under the provisions of Subsection 8 of Section 32L of Chapter 140 of the General Laws, or any successor statutory authority, or within 30 days from the effective date of this by-law if said notice has already been served, and is prior to the effective date of discontinuance.

i. No eviction certificate shall be issued by the Rent Board because of the discontinuance of the use for all or part of a mobile home park unless a discontinuance permit has been issued by the Board of Selectmen.

j. This By-law shall not apply to mobile home parks which have sent out notices of a change of use or discontinuance under the provisions of Subsection (8) of Section 32L of Chapter 140 of the General Laws prior to February 5, 1993; provided, however, that this By-law shall apply to any mobile home parks which send out new or amended notices of change of use or discontinuance pursuant to the provisions of said Subsection (8) of said Section 32L subsequent to February 5, 1993.

Section 8. Judicial Review.

a. The provisions of Chapter 30A of the General Laws shall be applicable to the Rent Board as if the Board were an agency of the Commonwealth of Massachusetts, including those provisions giving agencies the power to issue, vacate, modify and enforce subpoenas and those provisions relating to judicial review of an agency order.

b. The provisions of Chapter 30A of the General Laws relating to judicial review of an agency order shall be applicable to a decision and order of the Board of Selectmen granting or denying a discontinuance permit under the provision of Section 7 therein.

c. The Taunton Division of the District Court Department shall have original jurisdiction, concurrently with the Superior Court Department, of all petitions for review brought pursuant to Section 14 of Chapter 30A of the General Laws. Any and all parties aggrieved by the action(s) of the Rent Board may institute an action as provided herein.

d. The Superior Court Department and the Housing Court Department shall have jurisdiction to enforce the provisions of this By-law and may restrain violations thereof.

Section 9. Penalties.

Violations of this By-law or any order of the Rent Board shall be punishable a fine of not more than one thousand dollars (\$1,000.00) for anyone (1) offense.

Section 10. Severability.

If any provision of this By-law shall be held invalid, the validity of the remainder of the By-law shall not be affected thereby; additionally, the invalid provision shall be interpreted and applied until amendment by the appropriate body to the fullest extent applicable under Massachusetts law and regulations.